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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA  
AT ANCHORAGE

ALASKA RENT-A-CAR, INC.,	)	
an Alaska Corporation,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CENDANT CORPORATION, et al.,	)	
	)	
Defendants.	)	Case No. 3:03-cv-29 [TMB]

**MEMORANDUM IN SUPPORT OF MOTION TO STRIKE**

The parties engaged in mediation of both discovery and scheduling deadlines before Special Master David Ruskin. The parties specifically discussed that they would file motions for summary judgment and the possibility of cross-motions. It was agreed, as part of a "package deal" in which plaintiff gave up certain discovery, that the deadlines for filing dispositive motions would be commencing on April 25, 2006, and ending on June 20, 2006. The parties agreed, Special Master David Ruskin recommended, and this Court ordered, that the deadline for filing all dispositive motions was June 20, 2006.<sup>1</sup>

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<sup>1</sup> Exhibit 1, Docket 149 at 1.

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Stipulations should be honored and should not be altered absent extraordinary circumstances. *In re Durability Inc.*, 212 F.3d 551, 556 (10th Cir. 2000).

The parties specifically agreed to a June 20, 2006, deadline for dispositive motions and timeframes for oppositions and replies such that briefing would be complete as set forth by the Court in its Docket 189 by August 21, 2006. By filing their cross-motion, a dispositive motion, in violation of the order at Docket 149, the defendants are seeking to restart the clock on the timing of dispositive motions over two months after the ordered and agreed deadline. The cross-motion is untimely and should be stricken.

DATED this 29th day of August, 2006.

BANKSTON GRONNING O'HARA, PC  
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### **CERTIFICATE OF SERVICE**

I hereby certify that on August 29, 2006, a copy of foregoing Memorandum in Support of Motion to Strike was served electronically on Diane F. Vallentine and John F. Dienelt and on

Barry M. Heller  
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1200 Nineteen Street NW  
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by regular U.S. Mail

s/Jon T. Givens